

CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Assistant Commissioner for Patents, Washington, D.C. 20231, on May 7, 2001.

Patricia Ellison
Patricia Ellison



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

H. Ralph SNODGRASS

Serial No.: 09/457,931

Filing Date: December 8, 1999

For: TOXICITY TYPING USING
EMBRYOID BODIES

Examiner: J. Kerr

Group Art Unit: 1633

RECEIVED
MAY 09 2001
TECH CENTER 1600/2900

RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to the Office Action dated March 27, 2001 (Paper No. 11), which set forth a restriction requirement for pending claims 1-41. A response was due on April 27, 2001. Filed herewith is a Petition and fee for a one-month extension of time, thereby extending the deadline from April 27, 2001 to May 27, 2001. Accordingly, this response is timely filed.

Applicant hereby elects Group I (claims 1-18 and 21-33), without traverse. Applicant expressly reserves his right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application.

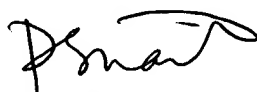
The Examiner has required Applicant under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner has stated that currently claims 1, 2, 19, 21-23, 34 and 39 are generic. Applicant hereby elects the species recording alterations in protein expression. With this election, claims 1-4, 7-18, 21-33 remain under consideration. Applicant expressly reserves his right under 35 U.S.C. §121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application. Applicant further requests rejoinder of withdrawn species claims upon allowance of a claim that encompasses the currently withdrawn species. MPEP 809.02(c).

Applicant requests examination of the elected subject matter on the merits.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 441472000100. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: May 2, 2001

By: 
Paul S. Naik
Limited Recognition Under 37 CFR
§10.9(b)
(copy of certificate attached)

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Telephone: (650) 813-5704
Facsimile: (650) 494-0792